

**REMARKS:**

Claims 1-28 are currently pending in the application.

Claims 1-28 stand rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 6,823,495 to Vedula, et al. ("*Vedula*").

The Applicant wishes to thank the Examiner for withdrawing the rejection of claims 1-28 under 35 U.S.C. § 102(e) over Tenorio et al.

Reconsideration and withdrawal of the outstanding rejections is respectfully requested in light of the following remarks.

**REJECTION UNDER 35 U.S.C. § 103:**

Claims 1-28 stand rejected under 35 U.S.C. § 103(a) over *Vedula*.

The Applicant respectfully submits that *Vedula* fails to disclose, teach, or suggest each and every element of independent Claims 1-28. Thus, the Applicant respectfully traverses the Examiner's obvious rejection of Claims 1-28 under 35 U.S.C. § 103(a) over *Vedula*.

***Vedula* Fails to Teach, or Suggest Various Limitations Recited in Applicant's Claims**

For example, with respect to independent Claim 1, this claim recites:

A schema translation tool, comprising:  
a mapping module operable to:  
    receive information regarding a source schema and a target  
    schema, the source and target schemas each comprising a taxonomy  
    comprising a hierarchy of classes into which products may be categorized,  
    at least the source schema further comprising a product ontology  
    associated with one or more of the classes, each product ontology  
    comprising one or more product attributes; and  
    associate one or more source classes of the source schema  
with one or more target classes of the target schema; and

***an ontology generation module operable to generate a product ontology for each of the target classes based on the product ontologies of the associated source classes.*** (Emphasis added)

Independent Claims 9, 17, and 25-28 recite similar limitations. *Vedula* fails to disclose each and every limitation of independent Claims 1, 9, 17, and 25-28.

The Applicant respectfully submits that *Vedula* fails to disclose, teach, or suggest independent Claim 1 limitation regarding an “ontology generation module operable to generate a product ontology for each of the target classes based on the product ontologies of the associated source classes”. The Office Action alleges that this limitation is taught by the processing engine 26 and map 28 in Figure 2 of *Vedula*, which supports the creation of the graphical interface in Figure 5 of *Vedula*. The Applicant respectfully disagrees. In fact, independent Claim 1 recites “***generat[ing]*** a product ontology for each of the ***target classes based on the product ontologies of the associated source classes***”. However, according to *Vedula*, column 10, lines 28 – 44, both the source and target have properties associated with them. That is, when the user, in *Vedula*, selects the target document, that document already has properties, or attributes, defined. As a product ontology comprises product attributes, it follows that ***Vedula teaches a predefined product ontology for the target.*** In fact, the Office Action acknowledges this, (19 October 2006 Office Action, Page 2) which states “Both the source schema and target schema define an ontology.... As seen in Fig. 3C, each record has defined attributes, thus the ontologies in both the source schema and the target schema contain attributes”. In contrast, ***independent Claim 1 provides for generating ontology for the target based on the ontology of the source.*** Thus, if *Vedula* teaches a predefined ontology for the target, it follows that *Vedula* fails to teach or suggest the limitation regarding “***generat[ing]*** a product ontology for each of the ***target classes based on the product ontologies of the associated source classes***”. Therefore, *Vedula* fails to teach, suggest, or even hint at “***generat[ing]*** a product ontology for each of the ***target classes based on the product ontologies of the associated source classes***”, as recited in independent Claim 1.

In addition, since *Vedula* teaches that each target and source document has a predefined ontology associated with it, it follows that *Vedula* fails to teach an ontology generation module, because, as taught by *Vedula*, there is no need to generate an ontology.

The Applicant further respectfully submits that the Examiner's Official Notice fails to cure the deficiencies of *Vedula*. The Examiner's Official Notice fails to disclose, teach, or suggest independent Claim 1 limitations regarding "**generat[ing]** a product ontology for each of the **target classes based on the product ontologies of the associated source classes**". In fact, the Examiner's Official Notice merely states that forming the records of *Vedula* to contain non-functional descriptive material, such as product information, would have been obvious to one of ordinary skill in the art. Thus, the Examiner's Official Notice fails to teach, suggest, or even hint at "**generat[ing]** a product ontology for each of the **target classes based on the product ontologies of the associated source classes**", as recited in independent Claim 1. Thus, the Applicant respectfully submits that the Office Action fails to state a prima facie case of obviousness as the proposed combination fails to teach or suggest all the limitations of independent Claim 1.

#### **The Examiner's Official-Notice is improper under MPEP § 2144.03**

The Applicant respectfully submits that it is not clear what the Examiner teaches by the Official Notice or even the extent in which the Examiner is taking Official Notice. The Applicant respectfully requests clarification as to the subject matter for which the Examiner is taking Official Notice. ***The Applicant respectfully traverses the Official Notice because the asserted facts, as best understood by the Applicant, is not supported by substantial documentary evidence or any type of documentary evidence and appear to be the Examiner's opinions formulated using the subject Application as a template, which constitutes impermissible use of hindsight.*** Furthermore, under these circumstances, it is inappropriate for the Examiner to take Official Notice without documentary evidence to support the Examiner's conclusion. (See MPEP § 2144.03). ***The Applicant respectfully requests the Examiner to produce authority for the Examiner's Official Notice.***

Only “in limited circumstances,” is it “appropriate for an examiner to take official notice of facts not in the record or to rely on common knowledge in making a rejection”. (MPEP § 2144.03). “Official notice unsupported by documentary evidence ***should only be taken by the examiner*** where the facts asserted to be well-known, or to be common knowledge in the art and ***are capable of instant and unquestionable demonstration as being well-known***. With respect to the subject Application, ***the Examiner’s statement*** that “forming the records to contain non-functional descriptive material, such as product information, would have been obvious to one of ordinary skill in the art”, ***is not capable of instant and unquestionable demonstration as being well-known***. (19 October 2006 Office Action, Page 3). As noted by the court in *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970), the notice of facts beyond the record which may be taken by the examiner must be ‘***capable of such instant and unquestionable demonstration as to defy the dispute***’ (citing *In re Knapp Monarch Co.*, 296 F.2d 230, 132 U.S.P.Q. 6 (C.C.P.A. 1961)).” (MPEP § 2144.03(A)). (Emphasis Added).

***“It is never appropriate to rely solely on “common knowledge” in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based.*** *Zurko*, 258 F.3d at 1385, 59 USPQ2d at 1697. (Emphasis Added). As the court held in *Zurko*, an assessment of basic knowledge and common sense that is not based on any evidence in the record lacks substantial evidence support. *Id.* at 1385, 59 USPQ2d at 1697. See also *In re Lee*, 277 F.3d 1338, 1344-45, 61 USPQ2d 1430, 1434-35 (Fed. Cir. 2002).” (MPEP § 2144.03(A)). “Ordinarily, there must be some form of evidence in the record to support an assertion of common knowledge. See *Lee*, 277 F.3d at 1344-45, 61 USPQ2d at 1434-35 (Fed. Cir. 2002); *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697 (holding that ***general conclusions concerning what is “basic knowledge” or “common sense” to one of ordinary skill in the art without specific factual findings and some concrete evidence in the record to support these findings will not support an obviousness rejection***). The examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge. See *Soli*, 317 F.2d at 946, 37 USPQ at 801; *Chevenard*, 139 F.2d at 713, 60 USPQ at 241. The applicant should be presented with the explicit basis on which the examiner regards the matter as subject to official notice and

be allowed to challenge the assertion in the next reply after the Office action in which the common knowledge statement was made.” (MPEP § 2144.03(B)). (Emphasis Added).

With respect to the subject Application, ***the Examiner has not properly Officially Noticed or not properly based the Official Notice on common knowledge.*** The Examiner's conclusory statement:

Forming the records to contain non-functional descriptive material, such as product information, would have been obvious to one of ordinary skill in the art.” (19 October 2006 Office Action, Page 3).

The above noticed Examiner's conclusory statement ***does not adequately address the issue that this statement is considered to be common knowledge or well-known in the art.*** The Applicant respectfully submits the following statement, to further explain why the Examiner's above noticed statement is not considered to be common knowledge or well-known in the art.

***First***, it is not clear what the Examiner means by “non-functional descriptive material”. In fact, the limitations recited in independent Claim 1 are directed to a product ontology which is comprised of product attributes. It is not clear how the Examiner's purported “non-functional descriptive material” relates to an ontology or product attributes, especially as attributes are properties of the products.

***Second***, it is not clear how product information can be “non-functional and descriptive” when the product information forms the basis for the product ontology. As the product attributes are used to comprise an ontology and ontologies are used to comprise schemas, it is unclear to the Applicant, how product data can be considered “non-functional descriptive material” that is unrelated to the substrate.

The Applicant further respectfully submits that ***the Applicant has adequately traversed the Examiner's assertion of Official Notice*** and direct the Examiner's attention to the pertinent text of the MPEP, which states:

If applicant adequately traverses the examiner's assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also

*Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697 (“[T]he Board [or examiner] must point to some concrete evidence in the record in support of these findings” to satisfy the substantial evidence test). If the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2). (MPEP § 2144.03(C)).

Thus, if the Examiner continues to maintain the rejection of independent Claim 1 based on the Examiner's Official Notice, ***the Applicant respectfully requests that the Examiner provide documentary evidence*** as necessitated by MPEP § 2144.03(C). Furthermore, if the Examiner is relying on personal knowledge to support the finding of what is known in the art, ***the Applicant further requests that the Examiner provide an Affidavit or Declaration setting forth specific factual statements and explanation to support the finding*** as further necessitated by MPEP § 2144.03(C).

#### **The Applicant's Claims are Patentable over the Proposed *Vedula*-Official-Notice Combination**

The Applicant respectfully submits that, for at least the reasons set forth above, independent Claim 1 is considered patentably distinguishable over the proposed combination of *Vedula* and the Examiner's Official Notice, either individually or in combination. With respect to independent Claims 9, 17, and 25-28 each of these claims include limitations similar to those of independent Claim 1. Thus, independent Claims 1, 9, 17, and 25-28 are considered patentably distinguishable over *Vedula* and the Examiner's Official Notice, either individually or in combination.

Dependent Claims 2-8, 10-16, and 18-24 depend from independent Claim 1, 9, and 17, respectively. As mentioned above, each of independent Claims 1, 9, and 17 are considered patentably distinguishable over *Vedula* and the Examiner's Official Notice. Thus, dependent Claims 2-8, 10-16, and 18-24 are considered to be in condition for allowance for at least the reason of depending from an allowable claim.

Furthermore, Claim 5 recites limitations not taught by the combination *Vedula* and the Examiner's Official Notice. *Vedula* fails to teach or suggest the limitation of "wherein the ontology generation module is operable to generate a product ontology for a target class **by determining the intersection of the product attributes** included in the product ontologies of the associated source classes". The Office Action alleges that *Vedula* teaches this limitation by mappings 16a and 16b in Figure 1. However, as stated in *Vedula*, the mappings are created by a user, using graphical mapping indicia (collectively 16). (See *Vedula*, column 9, lines 1-11). Thus, the cited passage of *Vedula* teaches that user chooses the relationships between the products. The cited passage of *Vedula* does not teach that an ontology generation module **determines the intersection of product attributes**, as recited in Claim 5. Further, as argued above in regards to independent Claim 1, *Vedula* does not teach an ontology generation module as *Vedula* does not teach ontology generation. Thus *Vedula* fails to teach or suggest the limitation of "wherein the ontology generation module is operable to generate a product ontology for a target class **by determining the intersection of the product attributes** included in the product ontologies of the associated source classes".

The Applicant further respectfully submits that *Vedula* fails to teach or suggest the all the limitations of Claim 6, including the limitation of "wherein the **ontology generation module** is further operable to **generate a product ontology for a parent class of a plurality of target classes** by determining the intersection of the product attributes included in the product ontologies of the target classes, **the product ontologies of the target classes having been generated by the ontology generation module**". First, the Applicant respectfully submits that *Vedula* does not teach an ontology generation module and therefore fails to teach or suggest the limitation of "wherein the **ontology generation module** is further operable to **generate a product ontology for a parent class of a plurality of target classes** by determining the intersection of the product attributes included in the product ontologies of the target classes, **the product ontologies of the target classes having been generated by the ontology generation module**". Second, the Applicant respectfully submits that *Vedula* teaches that the target already has a defined ontology. Therefore, *Vedula* fails to teach or suggest "**the product ontologies of the target classes having been generated by the ontology generation module**".

Third, the Applicant respectfully submits that since *Vedula* teaches that the target already has a defined ontology, *Vedula* fails to teach or suggest “**generate a product ontology for a parent class of a plurality of target classes** by determining the intersection of the product attributes”. Thus, the Applicant respectfully submits that *Vedula* fails to teach or suggest the limitation of “wherein the **ontology generation module** is further operable to **generate a product ontology for a parent class of a plurality of target classes** by determining the intersection of the product attributes included in the product ontologies of the target classes, **the product ontologies of the target classes having been generated by the ontology generation module**”.

For at least the reasons set forth herein, the Applicant respectfully submits that Claims 1-28 are not rendered obvious by the proposed combination of *Vedula* or the Examiner's Official Notice. The Applicant further respectfully submits that Claims 1-28 are in condition for allowance. Thus, the Applicant respectfully requests that the rejection of Claims 1- 28 under 35 U.S.C. § 103(a) be reconsidered and that Claims 1-28 be allowed.

#### **THE LEGAL STANDARD FOR OBVIOUSNESS REJECTIONS UNDER 35 U.S.C. § 103:**

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, **there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings**. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) **must teach or suggest all the claim limitations**. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and **not based on applicant's disclosure**. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); M.P.E.P. § 2142. (Emphasis Added). Moreover, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988); M.P.E.P. § 2143.03.



With respect to alleged obviousness, ***there must be something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.*** *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561 (Fed. Cir. 1986). (Emphasis Added). In fact, the absence of a suggestion to combine is dispositive in an obviousness determination. *Gambro Lundia AB v. Baxter Healthcare Corp.*, 110 F.3d 1573 (Fed. Cir. 1997). The mere fact that the prior art can be combined or modified does not make the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990); M.P.E.P. § 2143.01. The consistent criterion for determining obviousness is whether the prior art would have suggested to one of ordinary skill in the art that the process should be carried out and would have a reasonable likelihood of success, viewed in the light of the prior art. Both the suggestion and the expectation of success must be founded in the prior art, not in the Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); *In re O'Farrell*, 853 F.2d 894 (Fed. Cir. 1988); M.P.E.P. § 2142.

A recent Federal Circuit case makes it clear that, in an obviousness situation, the prior art must disclose each and every element of the claimed invention, and that any motivation to combine or modify the prior art must be based upon a suggestion in the prior art. *In re Lee*, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). Conclusory statements regarding common knowledge and common sense are insufficient to support a finding of obviousness. *Id.* at 1434-35.

**CONCLUSION:**


In view of the foregoing remarks, this Application is considered to be in condition for allowance, and early reconsideration and a Notice of Allowance are earnestly solicited.

Although Applicant believes no fees are deemed to be necessary; the undersigned hereby authorizes the Commissioner to charge any additional fees which may be required, or credit any overpayments, to **Deposit Account No. 500777**.

**Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.**

Respectfully submitted,

1/18/07  
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